

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 33. DEPARTMENT OF HEALTH SERVICES

GROUP HOMES FOR INDIVIDUALS WHO ARE DEVELOPMENTALLY DISABLED

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1656.) The Governor's Office authorized the notice to proceed through the rulemaking process on September 30, 2011.

[R12-115]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R9-33-101 | Amend |
| R9-33-102 | Amend |
| R9-33-103 | Re number |
| R9-33-103 | New Section |
| R9-33-104 | Re number |
| R9-33-104 | Amend |
| R9-33-105 | Re number |
| R9-33-105 | Amend |
| R9-33-106 | Re number |
| R9-33-106 | Amend |
| R9-33-107 | Re number |
| R9-33-107 | Amend |
| R9-33-108 | New Section |
| R9-33-109 | Re number |
| R9-33-109 | Amend |
| R9-33-201 | Amend |
| R9-33-202 | Amend |
| R9-33-203 | Amend |
| R9-33-204 | Repeal |
| R9-33-204 | Re number |
| R9-33-204 | Amend |
| R9-33-205 | Re number |
| R9-33-205 | Amend |
| R9-33-206 | New Section |
| R9-33-207 | Repeal |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. §§ 36-104, 36-132(A), and 36-136(F)
Implementing statutes: A.R.S. §§ 36-132(A)(21), 36-591(B), and 36-595(C) and (D)
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 17 A.A.R. 2165, October 28, 2011

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4. The agency's contact person who can answer questions about the rulemaking:

Name: Rohno Geppert, Office Chief
Address: Arizona Department of Health Services
Office of Special Licensing
150 N. 18th Ave., Suite 460
Phoenix, AZ 85007
Telephone: (602) 364-3048
Fax: (602) 364-4769
E-mail: Rohno.Geppert@azdhs.gov
or
Name: Thomas Salow, Manager
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1020
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5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Since the rules in *Arizona Administrative Code* (A.A.C.) Title 9, Chapter 33 were last revised in 2002, several changes within the industry have occurred that have made unnecessary some of the costs that stakeholders currently incur to achieve compliance. Additionally, a Five-year-review Report the Arizona Department of Health Services (Department) submitted in 2012 identified several substantive and technical issues with the rules. The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2011-05, and is proposing to amend the rules in 9 A.A.C. 33 to allow stakeholders to achieve cost savings in applicable cases and to address the issues identified in the Five-year-review Report. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study for this rulemaking.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

This rulemaking amends all the rules for format, structure, clarity, conciseness, and understandability, and among the amendments are several substantive changes that have potential economic implications. None of the changes are expected to impose new costs or increase existing costs for licensees who are in compliance with the rules or for other stakeholders. In general, the changes are expected to cause monetary or other benefits to stakeholders.

As used in this summary, annual costs/revenues are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification. Only the economic, small business, and consumer impact directly attributable to this rulemaking, rather than the impact imposed by the statute, is considered.

The Department is expected to experience a minimal-to-moderate benefit from expanding R9-33-106 to include more scenarios in which a licensee can make changes to its license without requiring issuance of a new license, a significant benefit from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk, and a significant benefit from the streamlining, reorganization, and clarification of requirements in all Sections.

The Department of Economic Security Division of Developmental Disabilities (Division) is expected to experience a significant benefit from the streamlining, reorganization, and clarification of requirements in all Sections.

Individuals and entities that operate group homes are expected to experience multiple benefits. A minimal or minimal-to-moderate benefit is expected from expanding R9-33-106 to include more scenarios in which a licensee can

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make changes to its license without requiring issuance of a new license; modernization of the first-aid kit requirements in R9-33-201(E) that were formerly in R9-33-207(A), amending R9-33-202(C) to allow licensees to use co-located fire extinguishers rated 1A-10-BC instead of a single 2A-10-BC extinguisher, amending R9-33-202(D) to allow licensees to use disposable fire extinguishers instead of requiring rechargeable extinguishers, and amending R9-33-202(I) to allow the use of wireless alarm systems instead of requiring a wired alarm system. A significant benefit is expected from amending R9-33-107(A)(2) to reflect that the Department may revoke or suspend a license if a licensee is not a service provider for the duration of one licensure period, rather than if a licensee is not a service provider for any duration of time as under the current rules; from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk; and from the streamlining, reorganization, and clarification of requirements in all Sections. Individuals and entities that operate group homes and that are not in compliance with R9-33-202 may incur minimal costs to connect a smoke detector to the facility's electrical or alarm system; an individual or entity in compliance with R9-33-202 incurs no cost from this change and may experience a significant safety benefit.

Individuals with a developmental disability who are residents of group homes are expected to experience significant benefits from adding to R9-33-201 a new subsection (D) providing instructions on how licensees will simulate the evacuation of residents for whom participation in an evacuation drill represents a health risk; from improved safety due to amending R9-33-202(E)(5) to require group homes cited more than once for having an inoperable smoke detector to connect the smoke detector to the facility's electrical or alarm system; and from the streamlining, reorganization, and clarification of requirements in all Sections.

The Department does not expect to add any employees as a result of this rulemaking.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

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Office of Special Licensing
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Phoenix, AZ 85007

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or

Name: Thomas Salow, Manager
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Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Thomas.Salow@azdhs.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department has scheduled the following oral proceeding:

Date and time: Monday, August 13, 2012, 1:30 p.m.
Location: 1740 W. Adams St., Conference Room 406
Phoenix, AZ 85007

Close of record: Monday, August 13, 2012, 5:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Thomas Salow at Thomas.Salow@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

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11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule will allow an applicant to receive a license. Since A.R.S. §§ 36-132(A)(21) and 36-591 require the licensing of a group home and the issuance of a license under specific circumstances, a general permit is not appropriate and is not used.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No business competitiveness analysis was received by the Department.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 33. DEPARTMENT OF HEALTH SERVICES

GROUP HOMES FOR INDIVIDUALS

WHO ARE DEVELOPMENTALLY DISABLED WITH A DEVELOPMENTAL DISABILITY

ARTICLE 1. LICENSURE REQUIREMENTS

Section

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R9-33-102. Requirement for Licensure

R9-33-103. Individuals to Act for Applicant or Licensee

~~R9-33-103.~~ R9-33-104. Application and Issuance of License Inspection

~~R9-33-104.~~ R9-33-105. License Renewal

~~R9-33-105.~~ R9-33-106. Changes Affecting a License

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ARTICLE 2. GROUP HOME REQUIREMENTS

R9-33-201. Emergency Procedures and Evacuation Drills

R9-33-202. Fire Safety Requirements

R9-33-203. ~~Safe and Functioning Systems~~ Physical Plant Requirements

~~R9-33-204.~~ Accessible and Usable Facilities

~~R9-33-205.~~ ~~R9-33-204. Clean and Sanitary Conditions~~ Environmental Requirements

~~R9-33-206.~~ R9-33-205. Vehicle Safety Requirements

R9-33-206. Swimming Pool Requirements

~~R9-33-207.~~ ~~Hazards and Dangers~~ Repealed

ARTICLE 1. LICENSURE REQUIREMENTS

R9-33-101. Definitions

In addition to the definitions in A.R.S. § 36-551, the following definitions apply in this Chapter unless otherwise specified:

1. "Accredited" "Accreditation" means accredited by recognition as having met the operating standards and criteria of a nationally recognized accreditation organization.
2. "Administrative completeness review time-frame" means the same as in A.R.S. § 41-1072.

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- 2-3. "Applicant" means an individual or business organization requesting a license under R9-33-104 to open a group home, the following if requesting a group home license:
- a. An individual, if a sole proprietorship;
 - b. Any two of the corporation's officers, if a corporation;
 - e. The managing partner, if a partnership or limited liability partnership; or
 - d. The designated manager, or if no manager is designated, any two members of a limited liability company, if a limited liability company.
- 3-4. "Application packet" means the forms, documents, and additional information the Department requires to be submitted by an applicant.
5. "Business organization" means the same as "entity" in A.R.S. § 10-140.
6. "Controlling person" means a person who, with respect to a business organization:
- a. Through ownership, has the power to vote at least 10% of the outstanding voting securities of the business organization;
 - b. If the business organization is a partnership, is a general partner or is a limited partner who holds at least 10% of the voting rights of the partnership;
 - c. If the business organization is a corporation, association, or limited liability company, is the president, the chief executive officer, the incorporator, an agent, or any person who owns or controls at least 10% of the voting securities; or
 - d. Holds a beneficial interest in 10% or more of the liabilities of the business organization.
- 4-7. "Day" means a calendar day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or state holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday.
- 5-8. "Department" means the Arizona Department of Health Services.
6. "Developmental disability" means the same as defined in A.R.S. § 36-551.
7. "Division" means the Division of Developmental Disabilities in the Arizona Department of Economic Security.
- 8-9. "Documentation" means written evidence information in written, photographic, electronic, or other permanent form.
- 9-10. "Facility" means a the building or buildings used as for operating a group home.
10. "Group home" means a residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the division and that provides, in a shared living environment, room and board and daily habilitation. Group home does not include an adult developmental home, a child developmental foster home, secure setting or an intermediate care facility for the mentally retarded.
11. "Habilitation" means the process by which an individual is assisted to acquire and maintain those life skills which enable the person to cope more effectively with the demands of his person and environment and to raise the level of his physical, mental and social efficiency.
11. "Fire risk prevention level" means a designation applied to a group home by the Division based on a formula aggregating safety factors existing at the group home.
12. "Hazard" means a an object, equipment, situation, or condition or situation that may result in physical injury or illness to a resident an individual.
13. "Licensee" means the individual or business organization to which the Department has issued a license partnership, or corporation approved by the Department to operate a group home.
14. "Modification" means the substantial improvement, enlargement, reduction, alteration, or other substantial change in the facility or another structure on the premises at a group home.
15. "Overall time-frame" means the same as in A.R.S. § 41-1072.
16. "Plumbing system" means fixtures, pipes, and related parts, including a septic apparatus, assembled to carry clean water into a structure and to carry sewage out of a structure.
- 14-17. "Premises" means:
- a. A facility; and
 - b. The grounds surrounding the facility used for operating a group home that are owned, leased, or controlled by the licensee, including other structures.
- 15-18. "Private residential swimming pool" means the same as defined in A.A.C. R18-5-201.
- 16-19. "Resident" means an individual who is accepted by a licensee under the terms of a contract with the Division to live at the licensee's group home.
17. "Service provider" means a person or agency that provides services to clients pursuant to a contract or service agreement with the division.
20. "Safety-approved" means tested and designated as meeting applicable safety standards by one or more of the following organizations:
- a. Underwriters Laboratories,
 - b. Canadian Standards Association, or
 - c. Factory Mutual Insurance Company Global.

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- 21. "Service provider contract" means the entirety of an applicant's or licensee's qualified vendor agreement with the Division.
- ~~18-22.~~ "Spa" means the same as defined in A.A.C. R18-5-201.
- ~~19-23.~~ "Staff" or "staff member" means an employee of the employees or volunteers who provide habilitation to residents at a group home.
- 20. "Supervision" means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.
- 24. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.

R9-33-102. Requirement for Licensure

- A.** An applicant shall obtain a license to operate a group home from the Department before providing supervision or habilitation to an individual with a developmental disability in a group home.
- B.** A license to operate a group home is valid for the following, as indicated on the license:
 - 1. Address of the group home indicated on the license;
 - 2. Name of the licensee indicated on the license;
 - 3. Name of the group home, if applicable;
 - 4. Fire risk prevention level; and
 - 3-5. Period of time indicated on the license Licensing period for the group home.

R9-33-103. Individuals to Act for Applicant or Licensee

When an applicant or licensee is required by this Chapter to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or licensee:

- 1. If the applicant or licensee is an individual, the individual; and
- 2. If the applicant or licensee is a business organization, the individual who the business organization has designated to act on the business organization's behalf for purposes of this Chapter and who:
 - a. Is a controlling person of the business organization,
 - b. Is a U.S. citizen or legal resident, and
 - c. Has an Arizona address.

~~R9-33-103.~~ **R9-33-104. Application and Issuance of License Inspection**

- A.** ~~At least 30 days before the anticipated date of opening~~ For a license to operate a group home, an applicant shall submit to the Department a completed application packet that contains:
 - 1. An application form provided by the Department that includes:
 - a. ~~The applicant's name, address, telephone number, facsimile number, and electronic mail address, if applicable;~~
 - b. ~~The proposed group home's name, if any, address, telephone number, facsimile number, and electronic mail address, if applicable;~~
 - e. ~~Whether the proposed group home is accredited by a nationally recognized accreditation organization;~~
 - c. The address and telephone number of the proposed group home;
 - d. The applicant's address and telephone number, if different from the address or telephone number of the proposed group home;
 - e. The applicant's e-mail address;
 - f. The name and contact information of an individual acting on behalf of the applicant according to R9-33-103, if applicable;
 - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-33-108(C)(3);
 - ~~d-h.~~ Whether the applicant is a current service provider or intends to become a service provider; and
 - i. The fire risk prevention level at which the applicant anticipates operating the group home; and
 - ~~e-j.~~ The applicant's signature and the date signed; and
 - 2. A copy of the applicant's:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status;
 - 3. A copy of the applicant's:
 - a. Current service provider contract with the Division indicating that services are to be provided at the address of the proposed group home; or
 - b. Documentation from the Division demonstrating that the applicant has a service provider contract pending for providing services at the address of the proposed group home; and
 - 2-4. A copy of the applicant's accreditation report issued by a nationally recognized accreditation organization, if applicable.

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- B. To ensure compliance with applicable federal and state laws, rules, or local ordinances, ~~an~~ An applicant or licensee shall ensure that an official of ~~allow~~ the Department is ~~allowed~~ immediate access to all areas of the premises, a resident, record, or vehicle used to transport a resident, according to A.R.S. § 41-1009.
- C. ~~For Department licensure of a group home:~~ Upon receipt of the application packet in subsection (A), the Department shall issue or deny a license to an applicant as provided in R9-33-108.
1. ~~The overall time frame described in A.R.S. § 41-1072(2) is 120 days. The applicant and the Department may agree in writing to extend the overall time frame. The substantive review time frame may not be extended by more than 25% of the overall time frame;~~
 2. ~~The administrative completeness review described in A.R.S. § 41-1072(1) is 60 days and begins on the date the Department receives an application packet;~~
 - a. ~~If any of the documents are missing or if information in the documents is deficient, the Department shall send to the applicant a written notice of incompleteness that states each deficiency and the information or documents needed to complete the application packet. The 60 day time frame for the Department to finish the administrative completeness review is suspended from the date the Department provides the notice of incompleteness to the applicant until the date the Department receives the required information or missing document;~~
 - b. ~~If all of the documents are submitted and the information on the documents is complete, the Department shall provide a written notice of administrative completeness to the applicant. The notice shall include the date and time of the Department's inspection of the group home;~~
 - c. ~~If the missing or deficient documents or information are not submitted within 120 days from the date of notice of incompleteness, the Department shall consider the application withdrawn;~~
 - d. ~~If the Department grants a license during the time provided to assess administrative completeness, the Department shall not issue a separate notice of administrative completeness;~~
 3. ~~The substantive review time frame described in A.R.S. § 41-1072(3) is 60 days and begins on the date the Department provides written notice of administrative completeness to the applicant;~~
 - a. ~~As part of the substantive review, the Department shall conduct an onsite inspection of the group home;~~
 - b. ~~During the substantive review time frame, the Department may make one comprehensive written request for additional information or documents;~~
 - c. ~~The time frame for the Department to complete the substantive review is suspended from the postmark date of the comprehensive written request until the Department receives the additional information or documents;~~
 - d. ~~The applicant shall submit to the Department the information or documents identified in the comprehensive written request within 30 days of receipt of the comprehensive written request;~~
 - e. ~~If an applicant meets the requirements of this Section and Chapter, the Department shall issue to the applicant:~~
 - i. ~~A two year regular license to operate a group home; or~~
 - ii. ~~If the applicant is accredited, a regular license to operate a group home for the duration of the accreditation period, not to exceed three years;~~
 - f. ~~The Department shall provide the applicant with a written notice of denial if:~~
 - i. ~~The applicant does not submit the additional information or documents within the time frame in subsection (C)(3)(d); or~~
 - ii. ~~Upon receipt of the additional information or documents from the applicant, the Department determines that the applicant does not meet the requirements of this Section and Chapter; and~~
 - g. ~~An applicant may appeal the Department's determination according to A.R.S. Title 41, Chapter 6.~~

R9-33-104. R9-33-105. License Renewal

- A. ~~A licensee shall submit to the Department a completed application for renewal of a license to operate a group home at least 60 days before the expiration date indicated on the license. An application shall contain the information in R9-33-103(A).~~ At least 60 days before the expiration date indicated on a license to operate a group home, for renewal of the license to operate a group home, a licensee shall submit to the Department an application packet that contains the information and documents in R9-33-104(A)(1), (A)(3)(a), and (A)(4).
- B. The Department shall renew a ~~regular~~ license to operate a group home:
1. If, after conducting an onsite inspection, the Department determines that the licensee is in compliance with the applicable requirements in this Chapter; and
 2. According to the time-frames in ~~R9-33-103(C)~~ R9-33-108.

R9-33-105. R9-33-106. Changes Affecting a License

- ~~A.~~ A licensee shall notify the Department in writing at least 30 days before the effective date of ~~termination of:~~
1. ~~Operation~~ Termination of operation of a group home; ~~or~~
 2. ~~A~~ Termination of a service provider contract with the Division;
 3. A change in the ownership of the group home;
 4. A change in the name of the group home;

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5. If the licensee is an individual, a legal change of the licensee's name;
6. Construction or modification of the facility or another structure on the premises other than construction or modification undertaken in accordance with R9-33-203(A); or
7. If approved by the Division, a change in the group home's fire risk prevention level.
- B.** If the Department receives the notification in subsection (A)(1), the Department shall void the licensee's license to operate a group home as of the termination date specified by the licensee.
- C.** If the Department receives the notification in subsection (A)(2), the Department shall take the applicable action in R9-33-109.
- D.** If the Department receives the notification in subsection (A)(3), the Department shall void the licensee's license to operate a group home upon issuance of a new license to operate a group home to the entity assuming ownership of the group home.
- E.** If the Department receives the notification in subsection (A)(4) or (5), the Department shall issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- F.** If the Department receives the notification in subsection (A)(6) or (7), the Department shall conduct an inspection of the premises as indicated in R9-33-104(B) and, if the group home is in compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter, if applicable, issue to the licensee an amended license that incorporates the change but retains the expiration date of the existing license.
- G.** An individual or business organization planning to assume operation of an existing group home shall obtain a new license as required in R9-33-102(A) before beginning operation of the group home.

R9-33-106. R9-33-107. Investigation of Complaints

- A.** Upon receipt of a complaint or ~~if there is a reasonable cause to believe~~ information indicating that a group home is ~~not~~ may not be in compliance with the Department's applicable laws and rules A.R.S. Title 36, Chapter 5.1 or this Chapter, the Department shall:
 1. Investigate the complaint or information about noncompliance within 30 days of ~~after~~ receipt of the complaint or information about noncompliance; and
 2. Develop a written report documenting the investigation; that:
 - a. Indicates whether the complaint is substantiated;
 - b. Identifies the rule or law being violated, if applicable;
 - c. Contains a plan of correction, acceptable to the Department, for the correction of a deficiency; and
 - d. Contains the signature of the licensee, indicating that the licensee agrees to carry out the plan of correction;
 3. Provide the licensee with the written report in subsection (A)(2); and
 4. ~~Notify~~ If the complaint or information about noncompliance was substantiated, notify the Division of the outcome of the investigation.
- B.** A licensee shall ensure that a deficiency listed on a plan of correction is corrected within 30 days from the date of the plan of correction. ~~If the Department substantiates a complaint or information about noncompliance at a group home, the licensee of the group home shall:~~
 1. Establish a plan of correction, if applicable, for correction of a deficiency;
 2. Agree to carry out the plan of correction by signing the written report in subsection (A)(2); and
 3. Ensure that a deficiency listed on the plan of correction is corrected within 30 days after the date of the plan of correction or within a time period the Department and the licensee agree upon in writing.

R9-33-108. Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072 for a license granted by the Department under this Chapter is set forth in Table 1.1. The applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for a license granted by the Department under this Chapter is set forth in Table 1.1 and begins on the date that the Department receives an application packet.
 1. The Department shall send a notice of administrative completeness or deficiencies to the applicant or licensee within the administrative completeness review time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information or items needed to complete the application.
 - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is sent until the date that the Department receives all of the missing information or items from the applicant or licensee.

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- c. If an applicant or licensee fails to submit to the Department all of the information or items listed in the notice of deficiencies within 120 days after the date that the Department sent the notice of deficiencies or within a time period the applicant or licensee and the Department agree upon in writing, the Department shall consider the application withdrawn.
2. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1.1 and begins on the date of the notice of administrative completeness.
 1. As part of the substantive review of an application for a license, the Department shall conduct an inspection that may require more than one visit to the group home.
 2. The Department shall send a license or a written notice of denial of a license within the substantive review time-frame.
 3. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information.
 - a. If the Department determines that an applicant or licensee, a group home, or the premises are not in substantial compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
 - b. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of the corrections required in a statement of deficiencies, within 30 days after the date of the comprehensive written request for additional information or the supplemental request for information or within a time period the applicant or licensee and the Department agree upon in writing.
 - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including, if applicable, documentation of corrections required in a statement of deficiencies.
 - d. If an applicant or licensee fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including, if applicable, documentation of corrections required in a statement of deficiencies, within the time prescribed in subsection (C)(3)(b), the Department shall deny the application.
 4. The Department shall issue a license if the Department determines that the applicant or licensee and the group home, including the premises, are in substantial compliance with A.R.S. Title 36, Chapter 5.1 and this Chapter.
 5. If the Department denies a license, the Department shall send to the applicant or licensee a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

Table 1.1 Time-frames (in days)

<u>Type of approval</u>	<u>Statutory authority</u>	<u>Overall time-frame</u>	<u>Administrative completeness review time-frame</u>	<u>Substantive review time-frame</u>
<u>Application for a license under R9-33-104</u>	<u>A.R.S. § 36-132(A)(21)</u>	<u>120</u>	<u>60</u>	<u>60</u>
<u>Renewal of a license under R9-33-105</u>	<u>A.R.S. § 36-132(A)(21)</u>	<u>60</u>	<u>30</u>	<u>30</u>

~~R9-33-107.~~ R9-33-109. Denial, Revocation, or Suspension of a License

- A. The Department may deny an application or suspend or revoke ~~or suspend~~ a license to operate a group home if:
 1. An applicant or licensee does not meet the application requirements contained in ~~R9-33-103~~ R9-33-104 or R9-33-105(A);
 2. A licensee is not a service provider for the duration of one licensure period;
 3. A licensee does not correct the deficiencies according to the plan of correction contained in ~~R9-33-106~~ R9-33-107 by the time stated in the plan of correction; or
 4. The nature or number of violations revealed by any type of inspection or investigation of a group home poses a direct risk to the life, health, or safety of a resident.
- B. An applicant or licensee may appeal the Department's determination in subsection (A) according to A.R.S. Title 41, Chapter 6, Article 10.
- C. The Department shall immediately notify the Division when an application is denied and when a license to operate a group home is suspended or revoked.

ARTICLE 2. GROUP HOME REQUIREMENTS

R9-33-201. Emergency Procedures and Evacuation Drills

- A.** A licensee shall ensure that a written plan for emergencies:
- ~~1. is developed and implemented;~~
 - ~~2. The plan shall be~~ is available and accessible to staff and each resident at the facility. ~~The plan shall include:~~
 - ~~1-3. Contains Procedures~~ procedures for responding to a fire, emergency, ~~and~~ severe weather conditions, ~~and other disasters, that include including:~~
 - a. Routes of evacuation, location of firefighting equipment, and evacuation devices identified on a floor plan of the facility;
 - b. Instructions on the use of fire alarm systems, firefighting equipment, and evacuation devices;
 - c. Procedures for evacuating each resident, including a resident who is not capable of self-preservation or who has a mobility, sensory, or other physical impairment; and
 - d. Procedures for notifying an emergency response team, law enforcement, and the licensee or the licensee's designee; and
- ~~2-4. Procedures~~ Includes procedures for when a resident is missing from the premises.
- B.** A licensee shall ensure that:
1. The facility's street address is painted or posted and against a contrasting background so that the group home's street address is visible from the street; or
 2. The local emergency response team, such as the local fire department, is notified of the location of the facility in writing at least once every 12 months. The licensee shall make the written notification available for review at the facility for at least two years from the date of the notification.
- C.** A licensee shall ensure that:
1. Except as described in subsection (D), an ~~An~~ evacuation drill that includes all residents, except any residents otherwise specifically excluded from evacuation drills as indicated on documentation provided by the Division for the resident, is conducted at least once every six months on each shift; and
 2. ~~The licensee shall make documentation~~ Documentation of an evacuation drill is available for review at the facility for at least two years ~~from~~ after the date of the evacuation drill that includes:
 - a. The date and time of the evacuation drill;
 - b. The length of time to evacuate or simulate the evacuation of all residents from the facility;
 - c. A description summary of the evacuation drill, including a list of the residents and staff who were present at the time of the drill, how the drill was performed, how long the drill took to complete, and, if applicable, a list of residents for whom evacuation was simulated; and
 - d. ~~A corrective action plan;~~ Except as provided in subsection (D)(2), if the length of time to evacuate all residents from the facility exceeds three minutes, a plan of correction to bring the evacuation time to three minutes or less in case of an actual emergency requiring evacuation;
- D.** If a group home provides services to a resident whom the Division has identified, through the assessment process used to determine the group home's fire risk prevention level, as having a condition that could cause a resident to be harmed if the resident participated in an evacuation drill, a licensee shall ensure that:
1. An evacuation drill:
 - a. Does not include the resident, and
 - b. Simulates the evacuation of the resident according to the plan required in subsection (A)(3)(c), and
 2. The documentation of an evacuation drill required in subsection (C)(2) also includes, if the length of time to evacuate or simulate the evacuation of all residents exceeds five minutes, a plan of correction to bring the evacuation time to five minutes or less in case of an actual emergency requiring evacuation.
- E.** A licensee shall ensure that:
1. A first aid kit is available in the facility that has the following items in a quantity sufficient to meet the needs of residents and staff:
 - a. Adhesive sterile bandages of assorted sizes,
 - b. Sterile gauze pads,
 - c. Sterile gauze rolls,
 - d. Adhesive or self-adhering tape,
 - e. Antiseptic solution or sealed antiseptic wipes,
 - f. Re-closable plastic bags of at least one-gallon size,
 - g. Single-use non-porous gloves,
 - h. Scissors,
 - i. Tweezers, and
 - j. A cardiopulmonary resuscitation mouth guard or mouth shield;

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2. All stairways, hallways, walkways, and other routes of evacuation are free of any obstacle that may prevent evacuation of a resident in an emergency;
3. If a window or door contains locks, bars, grills, or other devices that obstruct evacuation, each device contains a release mechanism that is operable from the inside of a facility and that does not require the use of a key, special knowledge, or special effort; ~~and~~
4. Each facility contains a working non-cellular telephone that is available and accessible to staff and each resident at all times; ~~and~~
5. ~~The following are posted at the location of a facility's telephone licensee shall post current telephone numbers for:~~
 - a. Instructions to dial 911 or the telephone number of another local emergency response team; ~~and~~
 - b. The address and telephone number of the group home.

R9-33-202. Fire Safety Requirements

- A. The Department shall issue to an applicant or licensee:
 1. A fire risk prevention level 1 group home license if the group home meets the requirements in ~~R9-33-202(B)~~ subsections (B) through R9-33-202(F) (G); and
 2. A fire risk prevention level 2 group home license if the group home meets the requirements in ~~R9-33-202(B)~~ subsections (B) through R9-33-202(G) (H).
- B. A licensee shall ensure that the ~~facility is~~ premises are in compliance with all applicable state and local fire safety regulations and that:
 1. ~~A Before a license is issued or renewed, a fire inspection is conducted at least once every 12 months~~ by the local fire department, the Department, or an entity authorized by the Department;
 2. Any repair or correction stated in ~~the~~ a fire inspection report is made or corrected according to the requirements and time in the fire inspection report; and
 3. ~~The~~ A current fire inspection report is available for review at the ~~facility for at least two years from the date of the inspection~~ group home.
- C. A licensee shall ensure that the facility has at least one a working, portable, all-purpose fire extinguisher with labeled as rated at least a 2A-10-BC rating by the Underwriter's Underwriters Laboratories as described in Publication 10 of the National Fire Code, incorporated by reference in A.A.C. R9-1-412, or two co-located working, portable, all-purpose fire extinguishers labeled as rated at least 1A-10-BC by Underwriters Laboratories, is installed and maintained in the facility as prescribed by the manufacturer or the fire authority having jurisdiction.
- ~~D.~~ A licensee shall ensure that a fire extinguisher ~~is~~:
 1. Is either:
 - a. Disposable and has a charge indicator showing green or "ready" status; or
 - b. Serviced at least once every 12 months or as recommended by the manufacturer by a fire extinguisher technician certified by the National Fire Protection Agency, the International Code Council, or Compliance Services and Assessments; and
 2. ~~Tagged~~ If serviced, is tagged specifying:
 - a. The date of purchase or the date of recharging, whichever is more recent; and
 - b. The name of the organization performing the ~~work~~ service, if applicable.
- ~~D.E.~~ A licensee shall ensure that smoke detectors are:
 1. Working and audible at a level of 75db from the location of each bed used by a resident in the facility;
 2. Capable of alerting all residents in the facility, including a resident with a mobility or sensory impairment;
 3. Installed according to the manufacturer's instructions; ~~and~~
 4. Located in at least the following areas:
 - a. Each bedroom;
 - b. Each room or hallway adjacent to a bedroom, except a bathroom or a laundry room; and
 - c. Each room or hallway adjacent to the kitchen, except a bathroom, a pantry, or a laundry room; ~~and~~
 5. If the licensee has been cited more than once in the previous four years under subsections (E)(1) through (4), either:
 - a. Hard-wired to the electrical system of the group home with a battery backup; or
 - b. Connected to an early-warning fire detection system required in subsection (H)(2), if applicable.
- ~~E.F.~~ A licensee shall ensure that each bedroom has at least one openable window or door to the outside for use as an emergency exit.
- ~~F.G.~~ A licensee shall ensure that:
 1. A usable fireplace is covered by a protective screen or covering at all times; and
 2. Combustible or flammable materials are not stored within three feet of a furnace, heater, ~~or~~ water heater, or usable fireplace.
- ~~G.H.~~ A licensee of a fire risk prevention level 2 group home shall ensure that:
 1. The facility contains an emergency lighting system that:
 - a. Works without in-house electrical power;

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- b. Illuminates the path of evacuation; ~~and~~
 - c. Is inspected at least once every 12 months by the manufacturer or an entity that installs and repairs emergency lighting systems; ~~and~~
- 2. ~~Documentation of an emergency lighting system inspection is available for Department review at the facility for two years from the date of the inspection and includes~~ The facility has an early-warning fire detection system that:
 - a. ~~The date of the inspection;~~ Is safety-approved;
 - b. ~~The name of the entity performing the inspection;~~ Is hard-wired or connected wirelessly, with battery back-up;
 - c. ~~A tag on the emergency lighting system or a written report of the results of the inspection, and~~ Sounds every alarm in the facility when smoke is detected;
 - d. ~~A description of any repairs made to the system as a result of the inspection~~ Is installed in each bedroom, each room or each hallway adjacent to a bedroom, and each room or each hallway adjacent to a kitchen; and
 - e. ~~Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs early-warning fire detection systems;~~
- 3. The facility has one of the following:
 - a- ~~At least two staff members on duty at the facility at all times and the facility has an early warning fire detection system that:~~
 - i- ~~Is hard-wired with battery back-up;~~
 - ii- ~~Sounds every alarm in the facility when smoke is detected;~~
 - iii- ~~Is installed in each bedroom, each room or each hallway adjacent to a bedroom, and each room or each hallway adjacent to a kitchen; and~~
 - iv- ~~Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs early-warning fire detection systems. The licensee shall make available the documentation of the inspection at the facility for review for at least two years from the date of the inspection and includes the information in subsection (G)(2); or~~
 - a. Sufficient staff on duty to evacuate all residents present at the facility within three minutes or, if applicable under R9-33-201(D), within five minutes; or
 - b. An automatic sprinkler system installed according to the applicable standard incorporated by reference in A.A.C. R9-1-412 and installed according to NFPA 13, NFPA 13R, or NFPA 13D, as applicable, that:
 - i. Covers every room in the facility; and
 - ii. Is inspected at least once every 12 months by the manufacturer or by an entity that installs and repairs automatic sprinkler systems; and ~~The licensee shall make available the documentation of inspection at the facility for review for at least two years from the date of the inspection and includes the information in subsection (G)(2).~~
- 4. Documentation is available at the facility for two years after the date of an inspection:
 - a. For:
 - i. The emergency lighting system inspection required in subsection (H)(1)(c);
 - ii. The early-warning fire detection system inspection required in subsection (H)(2)(e); and
 - iii. If applicable, the automatic sprinkler system required in subsection (H)(3)(b)(ii); and
 - b. That includes:
 - i. The date of the inspection.
 - ii. The name of the entity performing the inspection.
 - iii. A tag on the system or a written report of the results of the inspection, and
 - iv. A description of any repairs made to the system as a result of the inspection.

R9-33-203. ~~Safe and Functioning Systems~~ Physical Plant Requirements

A. A licensee shall ensure that:

- 1. A group home is in compliance with applicable federal and state disability laws;
- 2. If a group home has a resident with a mobility, sensory, or other physical impairment, documentation is available for review at the group home that:
 - a. Is provided by the Division; and
 - b. Identifies modifications, if any, needed to the premises to ensure that the premises are accessible to and usable by the resident;
- 3. The premises have been modified as identified by the Division in subsection (A)(2)(b);
- 4. Ramps, stairs, or steps on the premises are secured firmly to the ground or a permanent structure and have slip-resistant surfaces; and
- 5. If handrails and grab bars are installed in a facility, handrails and grab bars are securely attached and stationary.

~~A-B.~~ A licensee shall ensure that:

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1. A method of heating and cooling maintains the facility between 65° F and 85° F in areas of the facility occupied by residents;
2. Ventilation is provided by an openable window, air conditioning, or other mechanical device;
3. Working, safe appliances for cooling and cooking food are provided in the facility that:
 - a. Are safety-approved;
 - b. If used to refrigerate food, maintain the food at a temperature of 40° F or below at all times; and
 - c. If used to freeze food, maintain the food at a temperature of 0° F or below at all times; and
4. Hot water temperatures in the facility are maintained between 95° F and 120° F; and
5. Bathtubs and showers contain slip-resistant strips, rubber bath mats, or slip-resistant surfaces.

~~B-C.~~ A licensee shall ensure that:

1. Electrical lighting is contained in each room in the facility; and
2. Electrical devices and equipment in the facility is on the premises are safety-approved, safe, and in working order;
3. Electrical outlets on the premises are safe, covered with a faceplate, and installed in accordance with the requirements of the local jurisdiction;
4. If the facility was built or modified on or after the effective date of this Chapter, any electrical outlet located within 3 feet of a water source includes a ground fault circuit interrupt (GFCI);
5. An appliance, light, or other device with a frayed or spliced electrical cord is not used on the premises; and
6. An electrical cord, including an extension cord, on the premises is not:
 - a. Used as a substitute for permanent wiring;
 - b. Run under a rug or carpeting;
 - c. Run over a nail, or
 - d. Run from one room to another.

~~C-D.~~ A licensee shall ensure that:

1. A facility contains a safe, working plumbing and sewage system;
2. If a facility's plumbing system is connected to a non-municipal sewage disposal system is used, the sewage plumbing system and connective piping are in working order and free of visible leakage; and
3. Water is standing only in an area designated to hold standing water. The premises do not contain unfenced or uncovered wells, ditches, or holes into which an individual may step or fall.

~~R9-33-204. Accessible and Usable Facilities~~

A licensee shall ensure that:

1. A group home is in compliance with applicable federal and state disability laws; and
2. If a group home has a resident with a mobility, sensory, or other physical impairment, the licensee shall ensure that documentation is available for review at the group home that:
 - a. Is provided by the Division; and
 - b. Identifies modifications, if any, needed to the premises to ensure that the premises is accessible to and usable by the resident; and
3. Modifications are made to the premises as identified by the Division in subsection (2).

~~R9-33-205. R9-33-204. Clean and Sanitary Conditions~~ Environmental Requirements

A. A licensee shall ensure that:

1. a facility is The premises are free of accumulations of garbage or refuse; ~~and~~
2. garbage Garbage and refuse in the facility are is:
 - 1-a. Stored in cleanable containers or in saleable plastic bags; and
 - 2-b. Removed from the facility at least once every seven days;
3. Cleaning compounds and toxic substances are maintained in labeled containers that:
 - a. Are stored to prevent a hazard;
 - b. Are appropriate to the contents of each container;
 - c. If appropriate based on a resident's disability, are locked; and
 - d. Are stored in a separate location from food or medicine;
4. Unused furniture, equipment, fabrics, or devices are removed from the facility or maintained in a covered area on the premises that is designated by the licensee for storage in a manner that does not create a hazard; and
5. There are no firearms or ammunition on the premises;

B. A licensee shall ensure that:

1. a The facility is maintained free of insects and vermin;
1. In good repair or has an on-going system to ensure repairs are made and that the facility does not contain a hazard;
2. The premises and its structures and furnishings are:
 - a. Clean so that a condition in the facility is not a hazard; In a clean condition,
 - 3-b. Free of odors, such as urine or rotting food; and

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4.c. ~~Free of any~~ In sufficiently good repair that no object, equipment, or condition ~~that may be present constitutes~~ a hazard; and

5. ~~Free of insects and rodents or has an on-going system to eliminate insects or rodents from the facility.~~

3. Standing water is not allowed to accumulate on the premises, except in an area or vessel the purpose of which is to hold standing water.

C. A licensee shall ensure that:

1. An unvented space heater or open-flame space heater is not used on the premises;

2. An electric portable heater or electric radiant heater is not used on the premises unless the electric portable heater or electric radiant heater:

a. Has:

i. Either a non-porous casing or a grill with a mesh small enough to prevent cloth or a child's finger from entering the casing,

ii. A tilt switch that shuts off power to the electric portable heater if the electric portable heater tips over,

iii. An automatic shutoff control to prevent overheating, and

iv. A thermostat control, and

b. Is plugged directly into a wall outlet, and

3. A vented space heater used on the premises is:

a. Safety-approved;

b. Professionally installed in accordance with the requirements of the local jurisdiction; and

c. Mounted as a permanent fixture in a wall, floor, or ceiling.

R9-33-206. R9-33-205. Vehicle Safety Requirements

A. A licensee shall ensure that a vehicle used to transport a resident:

1. Is maintained in safe and working order; and

2. Has a record of each maintenance or repair that is available for review at the facility for at least two years from the date of repair; and

3-2. Is equipped with:

a. A working heating and air conditioning system;

b. A first aid kit that meets the requirements in ~~R9-33-207(A)(8)~~ R9-33-201(E)(1);

c. Working seat belts for the driver and each passenger; and

d. Floor mounted seat belts and wheel chair lock-down devices for each wheel chair passenger transported, if the vehicle is used to transport a passenger in a wheelchair.

B. ~~A licensee shall ensure that documentation of the requirements in subsection (A) is completed at least once every six months on a vehicle used to transport a resident and that the documentation is available for review at the facility for at least two years from the date of the vehicle inspection~~ A licensee shall ensure that documentation of each maintenance or repair of a vehicle used to transport a resident is available for review at the facility for at least two years after the date of the maintenance or repair.

R9-33-206. Swimming Pool Requirements

A. Except as provided in subsection (B), a licensee shall ensure that a private residential swimming pool on the premises:

1. If filled with water, is surrounded by a fence or enclosure constructed of rigid material that:

a. Is at least 5 feet high;

b. Is free of an opening that exceeds 4 inches or, if a wire mesh fence, is free of an opening that exceeds 1 3/4 inches;

c. Is free of openings for handholds or footholds on the exterior of the fence or enclosure;

d. Is at least 20 inches from the edge of the private residential swimming pool;

e. Is clear of objects out to a distance of 30 inches on either side of the fence or enclosure from the level of the ground to a height of 5 feet above the fence or enclosure;

f. Has at least one gate that:

i. Opens outward from the private residential swimming pool,

ii. Has a self-closing latch attached no less than 54 inches above ground level as measured from the exterior side of the fence or enclosure, and

iii. Is locked when the private residential swimming pool is not in use;

g. Is secured perpendicular to level ground; and

h. Is located at least 54 inches from the exterior wall of the facility to allow evacuation without entering the private residential swimming pool area;

2. Is not located in the path of an emergency exit;

3. If filled with water, is equipped with the following:

a. An operational water circulation system that clarifies the swimming pool water.

- # NOTICE OF PROPOSED RULEMAKING

[R12-113]

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- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

- 8. The preliminary summary of the economic, small business and consumer impact:**

The Federal Occupational Safety and Health Administration have determined that the Acetylene direct final rule is not economically significant regulatory action under Executive Order 12866 or a major rule under section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, and does not impose significant additional costs on private or public sector entities. The adoption of the revisions to OSHA's Hazard Communication Standard has four main areas that will generate potential costs to employers; 1) Cost of reclassification and revision of Safety Data Sheets (SDS) and labels, 2) Cost of management to familiarization and other management costs associated with the administration of the hazard communication programs, 3) Cost of employee training, and 4) Cost of printing labels for hazardous chemicals in color. OSHA has determined that the first three main cost areas are a one-time cost and will not re occur in years following implementation. The fourth cost area will continue but solely for the cost of the colored ink used to print labels. The major portion of cost will apply to the chemical manufactures and the cost will be negligible the years following implementation.

- 9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: William M. Wright, Assistant Director
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 W. Washington St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov

- 10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding has been scheduled as follows:

Date: August 8, 2012
Time: 9:00 a.m.
Location: ADOSH Training Room, second floor
Industrial Commission of Arizona
800 W. Washington St.
Phoenix, AZ 85007

The close of record is Wednesday, August 8, 2012 5:00 p.m. A person may also submit written comments on the proposed rules no later than 5:00 p.m. Wednesday February, to the individual listed in items 4 and 9.

- 11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction and 29 CFR 1910 The Federal Occupational Safety and Health Standards for General Industry with amendments as of March 26, 2012. These incorporation(s) by reference will appear in R20-5-601 and R20-5-602.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of ~~July 8, 2011~~, March 26, 2012, incorporated by reference. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~July 8, 2011~~, March 26, 2012.

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~July 8, 2011~~, March 26, 2012, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this rule shall not apply to those conditions and practices which are the subject of R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~July 8, 2011~~, March 26, 2012.